

**ACCEPTANCE OF CONDITIONAL RESOLUTION
AND WAIVER OF RIGHT TO HEARING;**

**SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE CIVIL
LIABILITY ORDER NO. R3-2015-0019 (UPON EXECUTION)**

Dynegy Morro Bay Power Plant
EPL No. R3-2015-0019
Waste Discharge Requirements Order No. R3-1995-0028
National Pollutant Discharge Elimination System (NPDES) Permit No. CA0003743

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Central Coast Regional Water Quality Control Board (Central Coast Water Board), the Dynegy Morro Bay Power Plant (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" (Offer) and waives the right to a hearing before the Central Coast Water Board to dispute the alleged violations described in the Notice of Violation (NOV) attached to the Offer as Exhibit A and incorporated herein by reference.

The Permittee agrees that the NOV shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the Central Coast Water Board to assert jurisdiction over the alleged violations through its enforcement staff. The Permittee agrees to pay the penalties authorized by California Water Code section 13385, as specified in the NOV (Expedited Payment Amount), which shall be deemed payment in full of any civil liability pursuant to the Water Code sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the NOV.

Expedited Payment Amount: **\$3,000.**

The Permittee understands that it may pay up to the maximum allowable portion¹ of the Expedited Payment Amount towards the Supplemental Environment Project (SEP) it indicates with an "X" in the first column of the table below. If selecting this option, the Permittee will indicate in the second column of the table below how much of the maximum allowable portion it will direct to the selected SEP. If the Permittee does not select the SEP option, the Permittee shall pay the total Expedited Payment Amount to the State Water Resources Control Board Cleanup and Abatement Account.

Maximum Allowable Portion for SEPs: **\$1,500.**

Check Below to Select the SEP Option	Amount (\$) of Maximum Allowable Portion for this SEP	SEP Name
XX	\$1,500.00	Groundwater Assessment and Protection (GAP)

¹ Pursuant to Water Code section 13385(l)(1), if the penalty amount exceeds \$15,000, the amount the Water Board may direct to a SEP may not exceed \$15,000 plus 50 percent of the penalty amount over \$15,000. For penalty amounts of \$15,000 or less, the Water Board may direct half of the full amount to a SEP.

Expedited Payment Letter (EPL) No. R3-2015-0019
NPDES Permit No. CA0003743

The Groundwater Assessment and Protection (GAP) program is the SEP option offered above. GAP is focused on addressing drinking water issues in disadvantaged communities. Information on GAP is available here:

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/gap/index.shtml

Funding for GAP is managed and administered by the non-profit Bay Foundation of Morro Bay. No SEP funds are directed to the Central Coast Water Board.

The State Water Resources Control Board's Enforcement Policy provides that payments for SEPs shall be treated as suspended liabilities pending completion of the SEP, or portion thereof, at which time the suspended liability becomes permanently waived by the Central Coast Water Board. By selecting the SEP option, the Permittee understands and acknowledges that the suspended portion of its Administrative Civil Liability is permanently suspended upon being spent towards the SEP by the party implementing the SEP. If the implementing party is unable to spend any portion of the suspended liability towards the SEP, then Central Coast Water Board staff will direct the implementing party to pay that amount to the Cleanup and Abatement Account to permanently suspend the remaining liability.

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the Notice of Violation.

Upon execution by the Permittee, the Permittee shall return this Acceptance and Waiver to:

Thea Tryon
Enforcement Coordinator
Central Coast Water Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

The Permittee understands that federal regulations set forth in title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Central Coast Water Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of this enforcement action. Accordingly, this Acceptance and Waiver, prior to execution by the Executive Officer of the Central Coast Water Board, will be published as required by law for public comment.

The Permittee understands that if significant comments are received in opposition to the Offer, the Central Coast Water Board enforcement staff's offer to resolve the violations set forth in the NOV may be withdrawn. In that circumstance, the Permittee will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Central Coast Water Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

If no comments are received within the notice period that causes the Executive Officer to reconsider the Offer, the Executive Officer will execute the Acceptance and Waiver as Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. R3-2015-0019 (Settlement and Order).

Expedited Payment Letter (EPL) No. R3-2015-0019
NPDES Permit No. CA0003743

The Permittee understands that after the signed Acceptance and Waiver is publicly noticed and executed by the Executive Officer of the Central Coast Water Board, Water Board staff will transmit the executed Settlement and Order to the Permittee with payment instructions and due dates. Furthermore, the Permittee understands that full payment of the Expedited Payment Amount, including any allowable portion of which is authorized for use in SEPs, within 30 days after staff transmits the executed Settlement and Order is a condition of this Acceptance and Waiver.

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver and the terms of the Settlement and Order.

By: Rex A. Lewis
(Signed Name)

May 1, 2015
(Date)

Rex A. Lewis
(Printed or typed name)

Managing Director
(Title)

Expedited Payment Letter (EPL) No. R3-2015-0019
NPDES Permit No. CA0003743

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: _____

By: _____
Kenneth A. Harris Jr.
Executive Officer
Central Coast Water Board

File Location: R:\RB3\Enforcement\EPLs\2015 Morro Bay Power Plant\Morro Bay Power Plant - MMP EPL
Acceptance-Waiver Form.docx
Primary Indexing #220808